

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

INDEMNITY INSURANCE COMPANY §
OF NORTH AMERICA; NEW YORK §
MARINE & GENERAL INSURANCE §
COMPANY; and NAVIGATORS §
INSURANCE COMPANY; XL §
SPECIALTY INSURANCE COMPANY; §
LIBERTY MUTUAL INSURANCE §
COMPANY; and NATIONAL LIABILITY §
& FIRE INSURANCE COMPANY §
§
Plaintiffs, §
VS. §
W&T OFFSHORE, INC. §
§
Defendant. §

C. A. NO. 4:12-CV-02469

**Consolidated with 4:12cv2924
4:12cv2778
4:12cv2504**

FINAL JUDGMENT

Summary judgment is granted for Plaintiffs Indemnity Company of North America, New York Marine & General Insurance Company, Navigators Insurance Company, XL Specialty Insurance Company, Liberty Mutual Insurance Company, and National Liability & Fire Insurance Company (“Movants”) on their declaratory judgment claims. Specifically, the Court has determined that:

- (a). coverage under Excess Liability policies, MS-S 2774, MS-S 2775, MS-S 2776, and MS-S 2777, arises only when the Retained Limits of the Excess Liability policies have been exhausted;
- (b). the applicable Retained Limits can be exhausted only by payment of “one or more claims that would [also] be insured” by the Excess Liability policies themselves; and

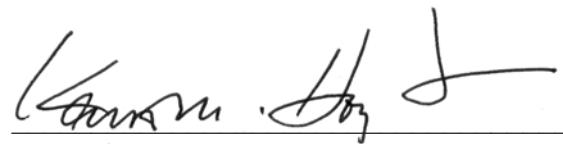
- (c). coverage under the Excess Liability policies, MS-S 2774, MS-S 2775, MS-S 2776, and MS-S 2777, has not been triggered because the applicable Retained Limits of the Excess Polices have not been exhausted.

Movants have withdrawn their claims for attorney fees.

The determination on Movant's declaratory judgment claims renders the counterclaims asserted by W&T Offshore, Inc. moot.

This is a final judgment.

SIGNED on this 12th day of August, 2013.



Kenneth M. Hoyt
United States District Judge